

FORM PTO-1190  
(REV 10-96)

U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE

ATTORNEY'S DOCKET NUMBER

TRANSMITTAL LETTER TO THE UNITED STATES  
DESIGNATED/ELECTED OFFICE (DO/EO/US)  
CONCERNING A FILING UNDER 35 U.S.C. 371

990667/RSB

U.S. APPLICATION NO. (If known, see 37 CFR 1.5)

09/403940

INTERNATIONAL APPLICATION NO.  
PCT/DE98/01172INTERNATIONAL FILING DATE  
28 April 1998PRIORITY DATE CLAIMED  
29 April 1997TITLE OF INVENTION: DEVICE FOR DETERMINING FLUCTUATIONS IN END EXPIRATORY GASES. METHOD  
FOR DETERMINING FLUCTUATIONS IN RESPIRATORY METABOLISM AND THE USE OF SAID DEVICE

APPLICANT(S) FOR DO/EO/US

Ludwig WILDT; Peter LICHT; Matthias MICHEL

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☒ This is a **FIRST** submission of items concerning a filing under 35 U.S.C. 371.
2. ☐ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. 371.
3. ☒ This express request to begin national examination procedures (35 U.S.C. 371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371(b) and PCT Articles 22 and 39(1).
4. ☒ A proper Demand for International Preliminary Examination was made by the 19th month from the earliest claimed priority date.
5. ☒ A copy of the International Application as filed (35 U.S.C. 371(c)(2))
  - a. ☐ is transmitted herewith (required only if not transmitted by the International Bureau).
  - b. ☒ has been transmitted by the International Bureau.
  - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☒ A translation of the International Application into English (35 U.S.C. 371(c)(2)).
7. ☐ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))
  - a. ☐ are transmitted herewith (required only if not transmitted by the International Bureau).
  - b. ☐ have been transmitted by the International Bureau.
  - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
  - d. ☐ have not been made and will not be made.
8. ☒ A translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☐ An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).
10. ☐ A translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

Items 11. to 16. below concern document(s) or information included:

11. ☒ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☒ A **FIRST** preliminary amendment.  
☐ A **SECOND** or **SUBSEQUENT** preliminary amendment.
14. ☐ A substitute specification.
15. ☐ A change of power of attorney and/or address letter.
16. ☒ Other items or information (copies of the following):

Express Mail Mailing Label No.:

EL 173 831 687 US

Date of Deposit:

October 29, 1999

I hereby certify that this paper and any papers identified herein is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231

*Laraine Dobies*  
Laraine Dobies

- (i) Form PCT/IB/308 dated Nov. 5, 1998
- (ii) WO 98/49536
- (iii) Form PCT/ISA/210, Int. Search Report  
(and English-language translation thereof)
- (iv) Drawings, 2 sheets, Figs. 1 to 2
- (v) International Preliminary Examination  
Report, Form PCT/IPEA/409  
(and English-language translation thereof)
- (vi) Article 19 claims (in German)

APPLICATION NO. 09/403940 INTERNATIONAL APPLICATION NO. PCT/DE98/01172

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 17. ☒ The following fees are submitted:

BASIC NATIONAL FEE (37 CFR 1.492(a)(1)-(5)):

Search Report has been prepared by the EPO or IPO ..... \$840.00

International preliminary examination fee paid to USPTO (37 CFR 1.482) ..... \$670.00

No international preliminary examination fee paid to USPTO (37 CFR 1.482) but international search fee paid to USPTO (37 CFR 1.445(a)(2)) ..... \$760.00

Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO ..... \$970.00

International preliminary examination fee paid to USPTO (37 CFR 1.482) and all claims satisfied provisions of PCT Article 33(2)-(4) ..... \$96.00

ENTER APPROPRIATE BASIC FEE AMOUNT =

CALCULATIONS PTO USE ONLY

\$ 840.00

 Surcharge of \$130.00 for furnishing the oath or declaration later than ☐ 20 ☐ 30 months from the earliest claimed priority date (37 CFR 1.492(e)).

\$

CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE
Total claims	11 - 20 =	0	\$ 18.00
Independent claims	2 - 3 =	0	\$ 78.00
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ 260.00
TOTAL OF ABOVE CALCULATIONS =			\$ 840.00
Reduction of 1/2 for filing by small entity, if applicable. Verified Small Entity Statement must also be filed (Note 37 CFR 1.9, 1.27, 1.28).			\$
SUBTOTAL =			\$
Processing fee of \$130.00 for furnishing the English translation later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492(f)).			\$
TOTAL NATIONAL FEE =			\$
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.23, 3.31). \$40.00 per property			\$
TOTAL FEES ENCLOSED =			\$ 840.00
			Amount to be refunded \$
			charged \$

 a. ☒ A check in the amount of \$ 840.00 to cover the above fees is enclosed.

 b. ☐ Please charge my Deposit Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ to cover the above fees. A duplicate copy of this sheet is enclosed.

 c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 06-1378. A duplicate copy of this sheet is enclosed.

NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.

SEND ALL CORRESPONDENCE TO:

 FRISHAUF, HOLTZ, GOODMAN, LANGER & CHECK, P.C.  
767 Third Avenue - 25th Floor  
New York, NY 10017-2023

Tel. No. (212) 319-4900

Fax No. (212) 319-5101

Date: October 29, 1999

SIGNATURE:

Richard S. Barth

NAME

28,180

REGISTRATION NUMBER